

IN THE SUPREME COURT OF THE STATE OF NEVADA

DALTON WILSON,
Appellant,
vs.
RON UNGER, SHERIFF; BRYAN
SPARKS, COMMISSIONER; CHRIS
SCHMIDT, COMMISSIONER; RAY
WILLIAMS, JR., COMMISSIONER;
CHUCK CHAPIN, COMMISSIONER;
STEVEN STEINMETZ,
COMMISSIONER; GENE
ETCHEVERRY, EXECUTIVE
DIRECTOR; AND HY FORGERON,
DISTRICT ATTORNEY,
Respondents.

No. 61349

FILED

DEC 14 2012

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Anderson
DEPUTY CLERK

ORDER OF AFFIRMANCE

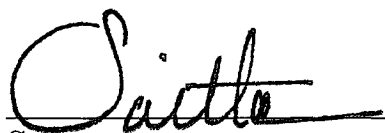
This is a proper person appeal from a district court order dismissing a petition for a writ of mandamus. Sixth Judicial District Court, Lander County; Michael Montero, Judge.

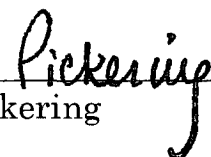
On appeal from a denial of a writ petition, this court will review the district court's decision for an abuse of discretion. DR Partners v. Bd. of County Comm'rs, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000). "A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion." International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (citations omitted); see NRS 34.160. It is a petitioner's burden to demonstrate that a court's extraordinary intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). It is within a court's discretion to determine whether a writ petition will be considered. Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

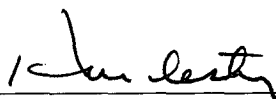
In his petition in the district court, appellant requested that the court order respondents to prevent the implementation of a federal judgment and injunction against appellant. The federal judgment resulted from an action filed by the United States of America against appellant in the United States District Court alleging that appellant was living upon and using land belonging to the Bureau of Land Management (BLM) without authorization. On July 28, 2010, the federal district court rendered a final judgment against appellant, finding that the land was owned by the BLM and permanently enjoining appellant from using or living upon the land. Appellant did not appeal from the July 28, 2010, judgment. Instead, appellant filed the underlying petition for mandamus in the state district court, the denial of which he now appeals.

In dismissing appellant's petition for a writ of mandamus, the district court determined that respondents were not under any duty to resist the enforcement of the federal district court's orders. We agree. Respondents do not have a duty to disobey federal court orders. Accordingly, we conclude that the district court did not abuse its discretion in dismissing appellant's petition, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

¹We conclude that appellant's arguments regarding an alleged conflict of interest and fraud upon the courts of Nevada by respondent Hy Forgeron lack merit and do not warrant reversal.

cc: Hon. Michael Montero, District Judge
Dalton Wilson
Lander County District Attorney
Lander County Clerk